

1 THE HONORABLE ROBERT S. LASNIK
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UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF WASHINGTON
AT SEATTLE

9 KAELI GARNER, *et al.*,

Case No. 2:21-cv-00750-RSL

10 Plaintiffs,

11 **DECLARATION OF GARNER KROPP IN
12 SUPPORT OF AMAZON'S REPLY ISO
MOTION TO COMPEL PRODUCTION OF
DATA RELIED ON BY PLAINTIFFS'
13 EXPERT SERGE EGELMAN**

14 v.
15 AMAZON.COM, INC., a Delaware
Corporation, and AMAZON.COM SERVICES
LLC, a Delaware Limited Liability Company,

NOTE ON MOTION CALENDAR:
September 10, 2024

Defendants.

ORAL ARGUMENT REQUESTED

1 Garner Kropp declares as follows:

2 1. I am an attorney at the law firm of Fenwick & West LLP, counsel of record for
 3 Defendants Amazon.com, Inc. and Amazon.com Services LLC (“Amazon”). I have personal
 4 knowledge of the facts set forth in this declaration. If called upon to do so, I could competently
 5 testify to those facts.

6 2. Counsel for Amazon deposed Plaintiffs’ retained expert Dr. Serge Egelman on
 7 September 6, 2024. I attended the deposition with my colleague Jedediah Wakefield, who took
 8 the deposition.

9 3. Dr. Egelman co-authored the paper *Privacy Attitudes of Smart Speaker Users*,
 10 which summarizes a survey of consumer preferences and perceptions about smart speaker use. Dr.
 11 Egelman relies on this paper in his report that Plaintiffs submitted in support of class certification.
 12 See Dkt. 255-52 ¶¶ 21, 36. Attached here as **Exhibit 1** is a true and correct copy of Dr. Egelman’s
 13 paper, *Privacy Attitudes of Smart Speaker Users*. Available at <https://petsymposium.org/popets/2019/popets-2019-0068.php>.

15 4. At the deposition, Mr. Wakefield asked Dr. Egelman regarding Amazon’s request
 16 for production pertaining to his *Privacy Attitudes of Smart Speaker Users* publication. In response
 17 to the question, “Did you make any effort to try to get the underlying data in response to the
 18 document requests in this case?” Dr. Egelman testified, “It didn’t seem necessary, given that the
 19 paper is publicly available. The paper was peer-reviewed; it’s a peer-reviewed publication.
 20 Generally, you know, once it passes peer review and is published, no one really pays attention to
 21 the raw underlying data anymore.” Egelman Tr. at 84:20-22, 84:25-85:5.

22 5. In response to Mr. Wakefield’s follow-up question, “Just to clarify, I wasn’t asking
 23 if you looked at it, I was asking if you tried to get it. Did you try to get it for this case?” Dr.
 24 Egelman testified, “No, I didn’t see the need.” Egelman Tr. at 88:20-23.

25 6. When Mr. Wakefield asked whether Dr. Egelman runs a laboratory at Berkeley that
 26 conducted the *Privacy Attitudes of Smart Speaker Users* study, Dr. Egelman testified, “That’s
 27 correct.” Egelman Tr. at 78:13-21.

1 7. Mr. Wakefield asked whether Dr. Egelman was personally involved in the “design
2 of the underlying survey,” with respect to the *Privacy Attitudes of Smart Speaker Users* study, to
3 which Dr. Egelman testified, “I was.” Egelman Tr. at 78:22-24. Mr. Wakefield asked whether
4 Dr. Egelman “review[ed] the survey questions before they were used,” to which Dr. Egelman
5 testified, “Absolutely.” Egelman Tr. at 78:25-79:2.

6 8. Mr. Wakefield asked whether Dr. Egelman “personally participate[d] in
7 performing the survey,” referenced above in paragraph 6, to which Dr. Egelman testified, “I – as
8 – as the senior author on the paper, I helped with the design of the study and mentored the students
9 and, you know, checked their work.” Egelman Tr. at 79:3-10.

10 9. Attached here as **Exhibit 2** is a true and correct copy of the excerpts of the transcript
11 of the deposition of Dr. Egelman referenced in paragraphs 3–8 above.

I declare under penalty of perjury under the laws of the United States of America that the foregoing is true and correct. Executed on September 10, 2024.

/s/ Garner Kropp
Garner Kropp